THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18581 of 2006

15.9.2006

Between:

N.Bikshapathi, S/o.Late Nenavath Sevla
And others

… Petitioners

AND

The District Collector, Ranga Reddy District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18581 of 2006

ORDER:

The petitioners are residents of Ghanapur Village of Ghatkesar Mandal in Ranga Reddy District. All of them belong to Scheduled Tribe (Lambada). In 1971, they or their predecessors were assigned land in survey No.1107 admeasuring Acs.18.27 guntas. It is not necessary to go into the details of assignment in their favour, as it is not in dispute. The third respondent herein, namely, the Mandal Revenue Officer, Ghatkesar Mandal (MRO), the third respondent herein, initiated action under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity) and A.P. Assigned Lands (Prohibition of Transfers) Rules, 1977 (the Rules for brevity). On an allegation that the petitioners sold their lands to M/s.Suresh Chander, Ramesh Chander, Naresh Chander, Mahesh Chander and Hari Chand, who are allegedly recorded as pattadars and possessors, show cause notice dated 16.3.2005 in Form-I under Rule 3 of the Rules was issued. These notices were affixed on the notice board of Gram Panchayat on 16.3.2005 at conspicuous places i n Ghanapur Village allegedly for the reason that the petitioners/assignees were not available in the village. The MRO passed orders on 25.1.2005 under Section 4 of the Act, ordering resumption of the land to an extent of Acs.16.17 guntas in survey No.1107 and Panchayat Secretary/Mandal Revenue Inspector was directed to resume the land under a panchanama. The petitioners allege that the MRO passed orders without issuing any valid notice to the petitioners.

The petitioners filed W.P.No.6721/2006 assailing the orders of the third respondent. This Court disposed of the same, giving liberty to

the petitioners to approach the appellate authority under Section 4(a) of the Act, and the appellate authority was directed to dispose of the appeal within a period of two weeks. Accordingly, the petitioners preferred appeal in File No.B/1092/2006 before the second respondent. When the same was not disposed of, as directed by this Court, the petitioners filed C.C.No.661 of 2006. When the same is pending, the second respondent passed orders on 29.8.2006 dismissing the appeal filed by the petitioners. The said order is challenged in the present writ petition.

Learned Counsel for the petitioners submits that the second respondent herein heard the appeal on 18.8.2006 and directed the petitioners to produce documentary evidence to show that they are residing in Ghanapur Village, and posted the matter to 25.8.2006. He also submits that on 25.8.2006, the petitioners along with Sri I.V.Radha Krishna Murthy, learned Advocate, went to the Office of the second respondent, who was not available. Therefore, learned Counsel points out that the observations made by the second respondent in the impugned order at page 8 to the effect that he heard the counsel for the appellants is not correct. It is thus urged that the impugned order is passed without affording proper opportunity of hearing. Secondly, it is urged that though adequate documentary evidence like Anthyodaya and Annayojana identity cards and ration cards, to show the domicile particulars of the petitioners was produced, the same was not taken into consideration. Lastly, it is urged that even if the petitioners alienated/transferred the assigned lands, which were subsequently cancelled by the petitioners, they are not entitled for restoration of the assigned lands under Section 4(1)(b) of the Act. This aspect of the matter was totally ignored by the Revenue Divisional Officer (RDO), when such an issue was raised.

Learned Counsel for the petitioners has also filed his own affidavit in support of the allegation that on 25.8.2006, he went to the office of the second respondent, but he was not available. The learned Assistant Government pleader for Revenue (Assignment), after getting instructions, submits that the second respondent went to the office with some delay and the petitioners' counsel was not heard on that day. He however submits that as the counsel for the petitioners was heard on 18.8.2006, this aspect is not fatal.

After considering the impugned order and submissions made by the learned Counsel for the petitioners and learned Assistant Government Pleader for Revenue (Assignment), this Court is of considered opinion that the principle that justice should not only be done but must be seen to have been done squarely applies to quasi judicial authorities. In this case, when the counsel appeared for the

petitioners before the third respondent, himself says that on 25.8.2006, the second respondent was not available in the office, a proper opportunity can be given to the petitioners to represent their case. Be it noted that the petitioners being ST and landless poor persons, are certainly entitled to the benefit of Section 4(1)(b) of the Act. This aspect is *prima facie* conspicuous by its absence in the impugned order, the RDO should consider the matter afresh including the points whether the petitioners are residing in Ghanapur Village and whether they are entitled for restoration of the land under Section 4(1)(b) of the Act. In view of the above, this writ petition is disposed of, at the admission stage, setting aside the impugned order. The matter is remitted to the second respondent – Special Grade Deputy Collector and Revenue Divisional Officer, East Division, Ranga Reddy District, Mohamzahi Market, Hyderabad; with a direction to hear the counsel for the petitioners, consider the entire evidence produced by them and pass appropriate order, within a period of two weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

September 15, 2006.

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